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DOW, LOHNES & ALBERTSON

ATTORNEYS AT LAW

1255 TWENTY-THIRD STREET

WASHINGTON, D.C. 20037-1194

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LEONARD JERVEY KENNEDY

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
TELEPHONE (202) 857-2500
FACSIMILE (202) 857-2900

Dr. Robert M. Pepper
Mr. Donald H. Gips
Office of Plans and Policy
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Attention: Stop Code 1600D
Room No. 822

RE: Ex Parte Letter
Partnership Agreement Disclosure
PP Docket No. 93-253

Dear Dr. Pepper and Mr. Gips:

On June 29, 1994, the Federal Communications Commission (the "Commission") adopted competitive bidding rules for the auctioning of broadband Personal Communications Services ("PCS") radio spectrum. As part of its effort to require applicants for PCS licenses to disclose fully the real party or parties in interest to each application, the Commission adopted general application requirements under section 24.813 that require that certain ownership information and exhibits be included with applicants' short and long-form applications, FCC Forms 175 and 401.

Section 24.813(a)(4) requires that a signed and dated copy of partnership agreements must be included in any application to participate in a PCS auction that is filed by a partnership. This requirement substantially disadvantages partnerships because definitive partnership agreements discuss strategic business objectives and financial and business obligations of partners in detail. Moreover, similar filings are not required of corporate or individual applicants.

Comcast submits that the required filing of a partnership agreement under section 24.813(a)(4) is overbroad and

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should be eliminated.^{1/} Specific information about an applicant's owners and holdings are required of all applicants, and this uniformly required information should be sufficient for the Commission to determine an applicant's real parties in interest.

Section 24.813 does not require corporations to file their Bylaws or Articles of Incorporation or business plan and does not require individuals to file any sort of business plan, but partnerships are required under section 24.813 to disclose their entire partnership agreement, including sensitive business and strategic planning information.^{2/} Partnerships therefore are required to submit far more information than any other type of applicant, yet the record contains no justification for requiring partnerships to submit additional information beyond that required of corporations and individuals. Comcast urges the Commission to eliminate the requirement to file partnership agreements because it is overbroad and otherwise inconsistent with the Commission's other PCS rules, and would give a competitive advantage to PCS bidders who operate under other forms of organization.

If the Commission declines to eliminate the required filing of partnership agreements it should ensure that the confidential, proprietary, and commercially sensitive information contained in many partnership agreements or exhibits to agreements is protected. One salutary step is to postpone the required filing of any partnership agreement until the submission of the post-auction long-form application, FCC Form 401. If an applicant is not successful in obtaining a license during an auction no public purpose is served by forcing the applicant to reveal potentially sensitive partnership information. The other information required by the Commission is sufficient to alert auction participants about the identity of their competitors.

^{1/} Comcast does not object to the other requirements of rule 24.813(a)(4) that the name and address of each partner, each partner's citizenship and the share or interest participation in the partnership be disclosed.

^{2/} The Commission also does not require parties to consortium arrangements, joint ventures and other agreements or understandings that relate to the bidding process to file actual copies of any agreement or arrangement. Rather, parties must disclose only the fact that an agreement or arrangement exists and the parties involved.

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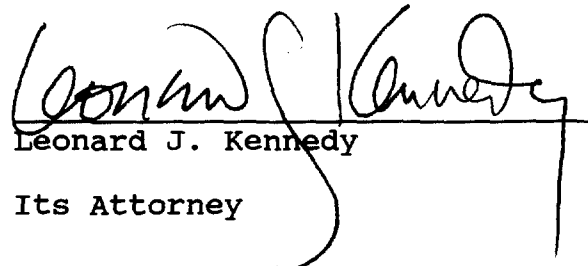
Consequently, no one is harmed if the partnership filing is postponed until the filing of Form 401, and the postponement will protect partnerships from having to reveal their business plans to competitors before the auction begins.

The Commission should also allow partnerships to file any required agreements, whether filed with Form 175 or with Form 401, either in redacted form or pursuant to a request that the materials not be made available for public inspection under section 0.459 of the Commission's Rules. As discussed above, partnership agreements often contain far more information than merely a description of the partners and their respective interests. Partnership agreements usually describe the partnership's business plan and may be quite specific as to the details included. If the Commission insists on making the confidential, proprietary and commercially sensitive business information contained in a partnership agreement available to the public, it will merely discourage partnerships from participating in the PCS auction process and will encourage the formation of alternative business structures.

Comcast urges the Commission to equalize the information reporting requirements applicable to PCS auction applicants by eliminating the requirement that partnerships alone of PCS applicants file their partnership agreements with Forms 175 and 401. In the alternative, Comcast requests that the Commission at least protect the sensitive information contained in partnership agreements by postponing their filing until the Form 401 is filed and by making any filing subject to protection from public inspection.

Respectfully submitted,

COMCAST CORPORATION


Leonard J. Kennedy
Its Attorney

LJK/rb
cc:

The Honorable Reed E. Hundt
The Honorable James H. Quello
The Honorable Andrew C. Barrett
The Honorable Rachelle B. Chong
The Honorable Susan Ness
Regina Keeney, Esq.
Rosalind K. Allen, Esq.